

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 3:07-cr-0106-WKW
)	
JUDSON MARSHALL COX, <i>et al.</i>)	

ORDER

This case is before the court on the United States' Unopposed Motion to Continue Trial. (Doc. # 87-2.) The criminal case is currently set for trial during the November 5, 2007 term. For the reasons set forth below, the Court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the Court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." *Id.* § 3161(h)(8)(A).

The Court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and the defendants in a speedy trial. In support of its motion to continue the trial, the Government states that all parties are actively involved in plea negotiations, that all parties believe the matter will be resolved by plea negotiation, and that the Government's counsel is

expected to be recovering from major surgery during the time of the trial as it is currently set. None of the parties oppose a continuance of the trial.

Accordingly, it is ORDERED that the United States' Unopposed Motion to Continue Trial (Doc. # 87-2) is GRANTED. Trial in this matter as to all defendants is continued from the November 7, 2007 trial term, to the criminal term of court beginning **February 4, 2008**. The Magistrate Judge shall conduct a pretrial conference prior to the **February 4, 2008**, trial term and enter a pretrial conference order.

DONE this 16th day of October, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE